STATE OF IOWA

DEPARTMENT OF COMMERCE

UTILITIES BOARD

IN RE: GEVO, INC.	DOCKET NO. DRU-2020-0002

DECLARATORY ORDER

BACKGROUND

On April 7, 2020, Gevo, Inc. (Gevo), filed with the Iowa Utilities Board (Board) a petition for a declaratory order concerning the applicability of 199 Iowa Administrative Code (IAC) 10.1(2) to certain pipelines intended to be part of a renewable natural gas (RNG) project Gevo is developing in northwest Iowa. Gevo plans to construct anaerobic digesters on three dairy farms, which will process manure into biogas. The biogas will be transported via pipelines to a processing/injection facility (RNG facility) which is located adjacent to the Northern Natural Gas (NNG) interstate pipeline. The RNG facility will convert the raw biogas into RNG of suitable quality for injection into the NNG interstate pipeline. The RNG is delivered from the RNG facility to the NNG interstate pipeline via a 250-foot-long pipeline. Gevo has requested that the Board issue a declaratory order determining whether the pipelines that will be built for the project will require permits from the Board.

On April 20, 2020, the Board issued an order providing notice of the petition to additional parties and requesting additional information from Gevo. On April 23, 2020, the Office of Consumer Advocate (OCA), a division of the Iowa Department of Justice,

filed comments on Gevo's petition. OCA commented that the pipeline between the RNG facility and the NNG interstate pipeline will require a permit because it will operate at a pressure above 150 pounds per square inch gauge (psig). OCA took no position on the other pipelines. On April 27, 2020, Gevo filed additional information in response to the Board's April 20, 2020 order.

FACTS

Gevo's project will involve three types of pipelines, all of which will be constructed, owned, operated, and maintained by Gevo. (Gevo Response, p. 2.) The three types of pipelines are described below.

1. NNG to digesters pipelines (Service Lines)

The Service Lines will supply natural gas from the NNG interstate pipeline to boilers on the farms that will heat the digesters. (Gevo Petition, p. 2.) The pipelines will begin at a delivery point constructed by NNG. (Gevo Response, p. 2.) Gevo will take title to the natural gas at the delivery point. (*Id*.) The Service Lines will consist of a total of approximately 15.1 miles of 4- and 6-inch diameter pipe. (Gevo Petition, p. 3.) These pipelines will operate at a pressure below 50 psig. (*Id*.) These pipelines will operate at less than 20 percent of specified minimum yield strength (SMYS). (*Id*., p. 8.) The digesters will be owned and operated by wholly owned subsidiaries of Gevo. (Gevo Response, p. 2.)

2. Digester to RNG facility pipelines (Digester to RNG Facility Lines)

These pipelines will transport biogas from the three on-farm digesters to the RNG facility. (Gevo Petition, p. 2.) The Digester to RNG Facility Lines will consist of a total of approximately 15.1 miles of 4-, 8-, and 12-inch diameter pipe. (*Id*.) These pipelines will operate at a pressure below 100 psig. (*Id*.) These pipelines will operate at less than 20 percent of SMYS. (*Id*., p. 5.) The digesters on the farms have no capacity to store biogas. (*Id*.) After processing the raw biogas into RNG at the RNG facility, the RNG will be delivered to the NNG interstate pipeline or will be loaded onto trucks for delivery to an ethanol plant owned by a corporate sibling of Gevo. (*Id*., p. 2.)

3. RNG facility to NNG pipeline (Injection Line)

This pipeline will transport RNG from the RNG facility to the NNG interstate pipeline. (*Id*.) This pipeline will be approximately 250 feet long and will consist of 4- and 6-inch diameter pipe. (*Id*.) This pipeline will operate at an average operating pressure between 675 psig and 725 psig, but cannot exceed 800 psig. (*Id*.) The RNG facility and the Injection Line will be located on a single parcel of land which will be owned or leased entirely by Gevo or NNG. (*Id*., p. 7; Gevo Response, p. 2.)

LEGAL STANDARDS

The Board issues declaratory orders in accordance with Iowa Code § 17A.9 and 199 IAC chapter 4. Board rule 4.1 provides that a person may file a petition for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the board. Board rule 4.12 provides that a

declaratory order shall be binding on the Board and the petitioner in cases in which the relevant facts and the law involved are substantially indistinguishable from those on which the order was based.

Board rule 10.1(2) establishes the circumstances under which the construction of a pipeline requires a permit from the Board. Rule 10.1(2) provides as follows:

> A pipeline permit shall be required for any pipeline which will operate at a pressure in excess of 150 pounds per square inch gauge (psig) or which, regardless of operating pressure, is a transmission line as defined in ASME B31.8 or 49 CFR 192.3. Using the factors set out in rule 199—10.14(479), the board shall determine whether a pipeline is a transmission line and requires a permit.

49 CFR 192.3 defines a transmission line as follows:

> Transmission line means a pipeline, other than a gathering line, that: (1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center; (2) operates at a hoop stress of 20 percent or more of SMYS; or (3) transports gas within a storage field.

In 49 CFR 192.3, a gathering line is defined as “a pipeline that transports gas from a current production facility to a transmission line or main.”

ASME B.31.8 § 803.211 defines a transmission line as “a segment of pipeline installed in a transmission system or between storage fields.” It defines a transmission system as “one or more segments of pipeline, usually interconnected to form a network, that transports gas from a gathering system, the outlet of a gas processing plant, or a storage field to a high- or low-pressure distribution system, a large-volume customer, or another storage field.”

Board rule 10.14 provides nine factors for the Board to consider when determining whether a pipeline is a transmission line. The rule states that the factors are meant to provide guidance, but there may be other factors the Board will consider which are not included in the rule. The factors are provided as follows:

1. The definitions of a transmission line in ASME B31.8 and 49 CFR 192.3.
2. Pipeline Hazardous Materials Safety Administration (PHMSA) interpretations.
3. The location of a distribution center.
4. Interconnection with an interstate pipeline.
5. Location of distribution regulator stations downstream of a proposed distribution center.
6. Whether a proposed distribution center has more than one source of supply and the type of pipeline that provides the supply.
7. Transfer of ownership of gas.
8. Reduction in pressure of pipeline at a meter.
9. No resale of gas downstream of a distribution center.

DISCUSSION

1. NNG to digesters pipelines (Service Lines)

The Service Lines will deliver natural gas from a delivery point on the NNG pipeline to the boilers which heat the digesters on the farms. They will operate at less than 20 percent of SMYS and clearly will not transport gas within a storage field. Under the remaining element of 49 CFR 192.3, a pipeline may only be considered a transmission line if it transports gas to a distribution center, storage facility, or large-volume customer that is not downstream from a distribution center. In this case, the Service Lines clearly do not transport gas to a storage facility.

Whether the Service Lines transport gas to a distribution center or a large-volume customer that is not downstream of a distribution center depends on the definition of the term "distribution center." The term is not defined at 49 CFR 192.3. However, on March 22, 2010, in Interpretation Response No. PI-09-0019, PHMSA stated, "we consider a 'distribution center' to be the point where gas enters piping used primarily to deliver gas to customers who purchase it for consumption as opposed to customers who purchase it for resale." Under that interpretation, the NNG delivery point would constitute a distribution center because it is the point at which gas enters piping used to deliver the gas to the digesters for consumption. The Board finds that this PHMSA interpretation is appropriate for this situation.

Because the NNG delivery point constitutes a distribution center, the Service Lines do not transport gas to a distribution center, storage facility, or large-volume customer that is not downstream from a distribution center. They are therefore not considered transmission lines under 49 CFR 192.3.

The Service Lines also do not meet the definition of a transmission line under ASME B.31.8 § 803.211. In order to meet that definition, the Service Lines must be part of a transmission system, which usually consists of an interconnected network of pipelines. The Service Lines are not part of an interconnected network. Instead they deliver gas from an interconnected network to a single point for consumption.

The Service Lines do not operate above 150 psig, nor do they meet the definition of a transmission line under 49 CFR 192.3 or ASME B.31.8. They therefore do not require a permit under 199 IAC 10.1(2).

2. Digester to RNG facility pipelines (Digester to RNG Facility Lines)

The Digester to RNG Facility Lines will transport biogas from the three on-farm digesters to the RNG facility. They will operate at less than 20 percent of SMYS and clearly will not transport gas within a storage field. Under the remaining element of 49 CFR 192.3, a pipeline may only be considered a transmission line if it transports gas from a gathering line or storage facility. The Digester to RNG Facility Lines transport gas from production facilities, not from gathering lines or storage facilities. Because the Digester to RNG Facility Lines do not transport gas from a gathering line or storage facility, they are not considered transmission lines under 49 CFR 192.3.

The Digester to RNG Facility Lines also do not meet the definition of a transmission line under ASME B.31.8 § 803.211. In order to meet that definition, the Digester to RNG Facility Lines must transport gas from a gathering system, the outlet of a gas processing plant, or a storage field. As noted above, the Digester to RNG Facility Lines transport gas from a production facility.

The Digester to RNG Facility Lines do not operate above 150 psig, nor do they meet the definition of a transmission line under 49 CFR 192.3 or ASME B.31.8. Therefore, they do not require a permit under 199 IAC 10.1(2).

3. RNG facility to NNG pipeline (Injection Line)

The Injection Line will transport RNG from the RNG facility to the NNG interstate pipeline. It will be approximately 250 feet long and will operate at a pressure above 150 psig. Gevo argues that the Injection Line is not a standalone pipeline, but is instead part of the RNG facility and is therefore not subject to permitting by the Board.

The Board is not persuaded by Gevo's argument that the Injection Line is part of the RNG facility. The purpose of the RNG facility is to process raw biogas from the digesters into RNG. The purpose of the Injection Line is to transport RNG to the NNG interstate pipeline. The Board finds that the Injection Line requires a permit because it will operate at a pressure above 150 psig.

DECLARATORY ORDER

Based upon the findings above, the Board concludes that the Service Lines and the Digester to RNG Facility Lines do not meet the requirements for a permit in 199 IAC 10.1(2). The Board concludes that the Injection Line does meet the requirements for a permit in 199 IAC 10.1(2). This declaratory order applies only to the facts as they are presented and addressed in this docket.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. A declaratory ruling as described in this order is issued in response to the request filed by Gevo, Inc., on April 7, 2020.

2. The Service Lines will not require permits pursuant to 199 Iowa Administrative Code 10.1(2).

3. The Digester to RNG Facility Lines will not require permits pursuant to 199 Iowa Administrative Code 10.1(2).

4. The Injection Line will require a permit pursuant to 199 Iowa Administrative Code 10.1(2).

UTILITIES BOARD

Geri Huser Date: 2020.06.04 08:04:33 -05'00'

Nick Wagner Date: 2020.06.03 15:56:36 -05'00'

ATTEST:

Anna Hyatt Date: 2020.06.04 09:42:58 -05'00'

Richard W. Lozier, Jr. Date: 2020.06.03 17:38:30 -05'00'

Dated at Des Moines, Iowa, this 4th day of June, 2020.